

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of

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Assessment and Collection
of Regulatory Fees for
Fiscal Year 1995

) MD Docket No. 95-3
)
)
)

COMMENTS OF PANAMSAT, L.P.

PanAmSat, L.P. ("PanAmSat"), by its attorneys, hereby submits the following comments with respect to the Notice of Proposed Rulemaking (the "Notice") in the above-captioned proceeding. The manner in which the Notice proposes to determine which entities must pay regulatory fees for geosynchronous space stations would not result in the imposition of regulatory fees on Comsat for its international satellite activities. For the reasons discussed below, Comsat should be required to reimburse the Commission for the costs associated with regulating Comsat's international satellite activities, just as Comsat's competitors are required to reimburse the Commission for the regulation of their respective activities. Additionally, the proposed regulatory fee for geosynchronous space stations is excessive and should be reduced to approximate the actual costs associated with the regulation of such stations.

I. COMSAT SHOULD BE SUBJECT TO REGULATORY FEES FOR THE REGULATION OF ITS INTERNATIONAL SATELLITE ACTIVITIES.

To ensure that regulated entities, and not the general public, shoulder the costs associated with the Commission's regulatory activities, Section 9(a) of the Communications Act of 1934, as amended, (the "Act") directs the Commission to assess and collect regulatory fees from such entities. The Act requires the Commission to adjust the requisite regulatory fees each year and, so that no entity pays more or less than its proportionate share of the Commission's regulatory expenses, the amount of regulatory fees for a given service in a given year must reflect increases or decreases in the number of licensees or units subject to payment of such fees.¹

¹ Sec. 9(b)(2)(A).

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In this regard, after dividing the amount of money the Commission has allocated to expend in Fiscal Year 1995 on the regulation of in-orbit, operational geosynchronous space stations by the estimated number of such stations, the Commission proposes a per station regulatory fee of \$142,250.² Under the Commission's proposal, only entities authorized to operate geosynchronous space stations in accordance with §25.120(d) of the FCC's Rules would be required to pay such regulatory fee. However, because Comsat is not a Part 25 licensee of the Intelsat space stations (as to which Comsat is the monopoly service provider in the United States), Comsat would be exempt from paying the regulatory fees associated with those stations.

Such a result is violative of the Act and, moreover, patently inequitable. The Commission expends substantial resources each year in connection with regulating the wide-ranging international satellite activities of Comsat. As noted above, Congress intended the beneficiaries of the Commission's regulatory services to bear the costs associated with those services. Exempting Comsat — the U.S. signatory to Intelsat (the largest satellite facilities owner in the world) and possessor of the largest ownership share in Intelsat — from regulatory fees related to the regulation of its international satellite activities would undermine substantially Congress' intent. Contrary to the Act's purpose, under the Notice, either the Commission would not recover the costs of regulating Comsat's international activities (*i.e.*, if the Commission has excluded these costs from the regulatory fee base) or those costs would be reflected in the regulatory fees paid by Comsat's competitors (*i.e.*, if the Commission has included these costs in the regulatory fee base).

Comsat already possesses substantial competitive advantages over separate system operators, advantages that flow not from unique business efficiencies or superior market acumen, but rather from its special governmental privileges and immunities, its legal monopoly over Intelsat space segment, and its abundance of scarce orbital locations. Exempting Comsat from the substantial regulatory fees that its competitors must pay would exacerbate further these unfair advantages.

To advance the important public interests underlying Section 9 of the Act and to prevent Comsat from obtaining additional unfair competitive advantages, Comsat must be subject to regulatory fees for the Intelsat space stations over which it enjoys monopoly control.

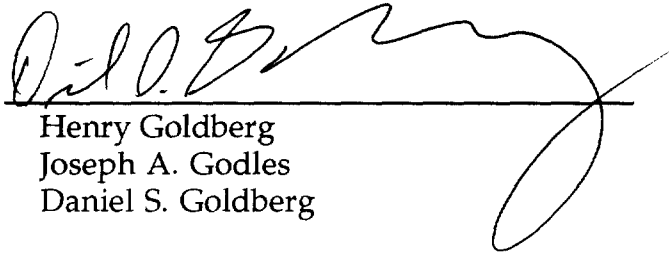
² Notice at 25.

II. THE PROPOSED REGULATORY FEE FOR SPACE STATIONS IS EXCESSIVE.

The proposed Fiscal Year 1995 regulatory fee of \$142,250 per operational geosynchronous space station is excessive. Such fee is, inexplicably, more than 100% greater than the \$65,000 fee Congress assessed just last year for these space stations. In short, the proposed fee bears no rational relationship to the actual costs associated with the regulation of such stations. If adopted, the fees would markedly increase the costs to end users of satellite services, place U.S. satellite licensees at a disadvantage *vis-a-vis* their international competitors, and serve as a disincentive to preserving older and underutilized satellites for redundancy purposes and to placing into service new space stations for markets that have not yet fully developed. In keeping with the purposes of the Act, the proposed regulatory fee for geosynchronous space stations should be reduced to reflect more appropriately the actual costs associated with the regulation of such stations.³

Respectfully submitted,

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³ Assuming the Commission included the costs associated with regulating Comsat's international satellite activities in the regulatory fee base, adding the "Comsat payment units" to the equation used to determine the appropriate space station regulatory fee would at least substantially reduce the payment burden on other space station licensees. Thus, if twenty Intelsat in-orbit satellites are added to the total number of payment units (a conservative estimate of the number of space stations Intelsat actually has in orbit), the requisite regulatory fee would be \$90,523. While this adjusted fee is still too high relative to the actual regulatory costs associated with the regulation of geosynchronous space stations, such a reduced fee would lessen the overall burden on each regulated entity.